THE STATE OF OHIO,)
) SS: RICHARD J. McMONAGLE, J.
COUNTY OF CUYAHOGA.)

IN THE COURT OF COMMON PLEAS

FRANCIS SMITH, Administratrix of the Estate of Alvester Smith, Sr., Deceased,

Plaintiff,

vs.

ST. LUKE'S HOSPITAL, et al.,

Defendants.

DUP. 354

Case No. 100877

- - -

Deposition of RANDALL B. PETERS, M.D.

taken by the Plaintiff as if upon cross-examination before James M. Mizanin, a Registered Professional Reporter and Notary Public within and for the State of Ohio, at the offices of Charles Kampinski Co., L.P.A., 1530 Standard Building, Cleveland, Ohio, on Tuesday, the 18th day of November, 1986, commencing at 2:00 p.m., by agreement of counsel.

- - -

APPEARANCES:

Charles Kampinski Co., L.P.A., by:
Charles Kampinski, Esq.
and
Christopher M. Mellino, Esq.,

On behalf of the Plaintiff.

Arter & Hadden, by:
Michael C. Zellers, Esq.,

On behalf of Defendant
St. Luke's Hosptial.

Kitchen, Messner & Deery, by:
Janet D. Dann, Esq.

On behalf of Defendant Agnes Sims, R.N.

Reminger & Reminger, by:
Marc W. Groedel, Esq.,

On behalf of Drs. Smith and Stephens.

- - -

STIPULATIONS

It is stipulated by and between counsel for the respective parties that this deposition may be taken in stenotypy by James M. Mizanin; that his Stenotype notes may be subsequently transcribed in the absence of the witness; and that all requirements of the Ohio Rules of Civil Procedure with regard to notice of time and place of taking this deposition are waived.

RANDALL B. PETERS, M.D.

called by the Plaintiff for the purpose of cross-examination, as provided by the Ohio Rules of Civil Procedure, being by me first duly sworn, as hereinafter certified, deposes and says as follows:

CROSS-EXAMINATION

BY MR. KAMPINSKI:

Q. Would you state your full name, please, for the record?

A. Randall Benjamin Peters.

Q. And where do you reside, sir?

A. In Richmond Heights.

Q. Address?

A. 446 Richmond Park East, Apartment 201 A, Richmond Heights, Ohio, 44143.

Q. I'm sorry, apartment?

A. 201 A.

Q. It's my understanding you are working in Akron now?

A. No, I'm not. I'm back in Cleveland.

Q. Okay. Where are you working, sir?

A. Currently at Huron Road Hospital.

Q. Doing what?

A. Doing a gynecology rotation there.

Q. What I would like you to do briefly, if

you would, run me through your educational background starting with high school.

A. High school, attended St. John's Military Academy outside Milwaukee, Wisconsin; then went to the University of Iowa in Iowa City, the college.

Q. When did you go there?

A. From 1974 to '78.

Q. How old are you?

A. I'm 30 years old.

Q. Date of birth?

A. March 22nd, 1956.

Q. Did you go to the University of Iowa right after high school?

A. Yes, I did.

Q. All right. And after you graduated -- I assume you graduated?

A. Yes, I did.

Q. Okay. Where did you go from there?

A. To the University of Texas, medical school.

Q. And when did you go there?

A. From 1979 through 1983.

Q. And you graduated with an M.D. degree?

A. That's correct.

Q. What did you do after that for education?

A. Came back here to Cleveland for a surgical residency.

Q. When you say back to Cleveland, were you originally from Cleveland?

A. No, from midwest. I'm sorry.

Q. And where did you go for the residency?

A. At St. Luke's Hospital.

Q. And you said that was a surgical residency?

A. That's correct.

Q. And how long were you at St. Luke's?

A. I'm still there. This is my fourth year.

Q. And I take it that the reason you are at Huron Road is this is some type of a rotational residency that causes you to go to different hospitals?

A. Exactly. We have certain agreements with other hospitals where we gain certain expertise in the area.

Q. Have you formulated your practice in terms of what you intend to specialize in?

A. Only vague plans, nothing in particular.

Q. Okay. What are the vague plans?

A. I plan to stay in general surgery as far as practicing and where I will go I have no idea

yet.

Q. When you say general surgery, any subspecialty within that particular field, orthopedics, anything else?

A. No, sir, general surgery.

Q. All right. This residency rotation, does it require you to get into different fields as time goes on; in other words, would you spend six months in orthopedic service or three months, two months?

A. The general surgery residency requires you have certain time in other subspecialties, yes.

Q. When did you do your orthopedic subspecialty training?

A. I believe that was in November and December of 1984.

Q. And who did you receive your training from? Was it all the orthopods at St. Luke's, any specific ones?

A. All the orthopods at St. Luke's.

Q. How many were there at that time; do you recall?

A. I do not recall. There were at least four, but there were probably more.

Q. Were two of those four or more Smith and Stephens?

A. Yes, they were.

Q. Did you work specifically for them or for all of them including them?

A. All of them including them.

Q. Did you receive any training from them outside of the hospital; in other words, anything other than clinical training, redactic training in the classroom?

A. None at all. Just what was through St. Luke's.

Q. So it was on-the-job training, basically?

A. Exactly.

Q. In terms of orthopedics, did they ever provide you with any training in terms of total hip replacements, the thought processes that went into whether you did it, what kind you did, what kind of components were used, that type of thing?

MR. ZELLERS: Objection. We're talking about Smith and Stephens?

MR. KAMPINSKI: Yes, that's right.

A. Only what was discussed during cases.

Q. (BY MR. KAMPINSKI) Okay. How about the other ones?

A. The same thing.

Q. All right. Do you recall Mr. Smith's

case, at all?

A. Only from what I have read from the records and the chart that I have.

Q. You don't have any independent recollection of Mr. Smith?

A. No, I don't.

Q. When have you reviewed the chart?

A. I have reviewed it over a number of days, most recently probably yesterday.

Q. And as far back as when? When were you first contacted about your involvement in this case?

A. I think about two months ago.

Q. And you have had occasion in the last two months then to review the record?

A. Yes.

Q. Have you talked to anybody about your involvement or the facts surrounding Mr. Smith's treatment?

A. Besides --

Q. Besides your attorney?

A. No, no one else.

Q. You haven't had any discussions with Dr. Smith, Stephens?

A. No, not at all.

Q. Were any statements taken of you

regarding your treatment of Mr. Smith at any time before today?

A. By whom?

Q. By anybody.

A. No. Well, besides the discussion I had with the lawyers, no.

Q. All right. You have got the original record in front of you, Doctor?

A. Yes.

Q. First of all, were you involved at all in the second surgery that occurred on November 17th?

A. Not at all.

Q. All right. Your involvement was primarily prior to the first surgery, including the first surgery and, I think, to some extent after the first surgery; is that accurate?

A. That's correct.

Q. As a matter of fact, I think you did the initial workup when he came in the hospital, didn't you?

A. That's correct.

Q. All right. Please refer to the record anytime you have to and when you do, I would like you to refer to the page numbers that are down there in the bottom right-hand corner so we know

what you are talking about.

A. Okay.

Q. If you could find the -- I guess this is the history, admission history and physical for November 12th.

A. Yes.

Q. And that's page 107 in the record?

A. That's correct.

Q. All right. Actually it's 107 and --

A. 108 and 109.

Q. Okay. And 107 and 108 are the typewritten portions, and 109 would be what, handwritten?

A. Correct.

Q. And those were prepared by you, sir?

A. Yes, they were.

Q. How is it that you were assigned or saw Mr. Smith for purposes of taking the history and physical?

A. The actual way things happen is that the intern or the junior resident on service at that time would routinely see the patient and obtain a history and physical from them and then record that in the chart.

Q. Okay. And which were you, the junior

resident?

A. That's correct.

Q. And you would have been on duty at the time, therefore, you would have done this?

A. Exactly.

Q. So it wasn't Dr. Stephens or Smith, you know, coming to you and saying, hey, I want you to work with me on this patient and take the history and physical?

A. No, it was not.

Q. But you knew that Stephens and Smith were the doctors?

A. Yes, I did.

Q. How is it that you knew that?

A. That is recorded on the patient's admission papers.

Q. And your job in taking the history and physical was what? Was it for purposes of any diagnosis or was it just -- well, what was the purpose for taking it?

A. The purpose of it is to record any sort of pertinent medical history that the patient has, to record his current medical problems, and to do a physical exam and then to record those in the chart.

MR. KAMPINSKI: Oh, just so the

record is clear, we are proceeding here without Mr. Kalur. I had called his office. They assumed that he was coming. It was about ten after when we started, so we are just going to proceed.

Q. (BY MR. KAMPINSKI) All right. So you actually questioned Mr. Smith to get this history?

A. Yes, I did.

Q. Did you refer to any prior documents, that is, a prior admission at all to get information for this history and physical?

A. From what I recall at the time I requested Mr. Smith and made this note in the chart, his previous charts were not available, no.

Q. They were not available?

A. That's correct. They weren't on the floor, I should say, so they weren't available for my immediate reading at that time.

Q. Did you ever read them?

A. Besides what was on the previous exam, previous admission contained in these papers up until about two months ago, no.

Q. Let me make sure I understand. Besides what was in the previous exam in these papers?

A. Right.

Q. What does that mean?

A. Well, there are two admissions here.

Q. Right.

A. One previous, several weeks prior to the time I saw Mr. Smith.

Q. Right.

A. And I did not see those papers.

Q. At that time?

A. Exactly.

Q. All right. You have seen them since in reviewing the record?

A. Yes, I have.

Q. All right. Is there anything that you have seen in there that you would have wanted to know in terms of this particular admission?

MR. ZELLERS: Objection.

A. No.

Q. (MR. KAMPINSKI) Okay. So you were aware of everything contained in the prior admission; that is, that he had high blood pressure?

A. Yes.

Q. He had hypertension?

A. Yes.

Q. And that it was believed at the prior attempted admission that he was not an appropriate candidate at that time for the surgery?

A. That's what I understand.

Q. And as a matter of fact, you put that down here in your history and physical, didn't you?

A. Yes, sir.

Q. All right. What was changed about this particular admission from the prior one that now caused him to be considered an appropriate candidate for the procedure?

A. Well, from reading the previous admission, he had had high blood pressure, and at that time underwent treatment for it, and at this time returned with that blood pressure under control.

Q. Well, if you look at page -- the second page of your summary, 108, if you would, please, sir, under assessment.

A. Yes.

Q. By the way, is there something written on there in ink?

A. Yes, sir.

Q. What's written down there?

A. It's a notation about a statement that I have made in the assessment and I can't read it.

Q. I mean this pen.

A. Yes, I can't read that.

Q. Does it say chronic?

A. It may. I can't read that.

Q. You don't know who wrote that, do you?

A. No, I don't.

Q. I'll just show you at least my copy of this. That's not written anywhere, is it?

A. No.

Q. So you don't know when that was put down or who put it down, do you?

A. No, I don't.

Q. In that same paragraph under assessment, the second to last sentence, would you read that for me, please, for the record?

A. Start out with, "Patient presents now with light complaints of left hip pain on ambulation. Currently on oral hypertensive medication. Hypertension still present."

Q. So the hypertension was still present?

A. When I saw the patient and did the exam, yes, it was.

Q. All right. So how was that different then from the prior admission, sir?

MR. ZELLERS: Objection. If you know.

A. From the previous admission I don't know if there is any difference in that number that was

obtained as far as his blood pressure goes.

Q. Because you have got up here, vital signs, blood pressure 150 over 110?

A. Right. I don't know what it was on the first admission.

Q. Why don't you take a look?

A. Okay. The only other notation I see on here as far as the blood pressure from the previous admission -- I don't know when this page -- There is no date that I can see. Oh, 10-22 it looks like.

Q. Okay.

A. 10-26 there is a notation of blood pressure being 210 over 140.

Q. And if you look at the next page, 10-23, is there a blood pressure taken there, also, 170 over 140?

A. There is several on that page, from 170 over 118 to 240 over -- excuse me, 210 over 140.

Q. All right. How does that compare in terms of -- If you know, and you may not. If you don't know the answer to any of my questions, just tell me. How does that compare with 150 over 110 for purposes of analyzing the ability of somebody to undergo surgery?

A. I don't know that answer.

Q. Okay. And by the way, although it hasn't occurred yet, but, you know, respond to my questions verbally. He can't take down a nod of your head, all right?

A. Yes, sir.

Q. All right. So you noted that hypertension was still present and the purpose of your noting all these things was what, to report to the visitants, that is Drs. Stephens and Smith, your findings of the history and physical?

A. Not in a direct fashion. To make note of that in the chart for purposes of letting them know perhaps indirectly -- in other words, after each of these exams and everything, we do not contact the attending physicians directly.

Q. Well, what do you do?

A. We make a note of that in the chart so that they have that for their record.

Q. So who has it for the record, the patient?

A. No, no. The attendees and the other physicians who see the patient.

Q. All right. Now, the next page was a written note of yours?

A. Yes.

Q. What's the page of that?

A. 109.

Q. And is there anything different in that than in the typewritten or did you write it and then dictate it?

A. I did exactly -- I wrote it and then dictated it.

Q. So we are going to see the same information in 109 as in 107 and 108?

A. Correct.

Q. Did you know what kind of procedure was going to be done on Mr. Smith?

A. Yes, I knew what procedure was planned.

Q. That was left total hip arthroplasty?

A. Correct.

Q. Did you have any discussions with the visitants in terms of what procedure they were going to use prior to the actual procedure; that is, whether they were going to remove the greater trochanter?

A. No, I didn't.

Q. Did they discuss with you whether or not they were going to use cement or have a cementless procedure?

A. No, they didn't.

Q. Did you ever become aware of which they

were going to do?

A. Not until the time it was performed, no.

Q. You were actually present in the operation, were you not?

A. Yes, I was.

Q. What happened?

A. What happened?

Q. Yes. What happened?

A. Besides reading the operative record here, I don't have any recollection of what happened.

Q. In reading the operative record, there were some complications, were there not, sir?

MR. ZELLERS: Objection.

Q. (BY MR. KAMPINSKI) And you can refer to the operative note if you would like.

A. I will have to.

Q. And tell us what page, 146?

A. 146, 147.

Q. Okay. It's got Complications on there, doesn't it? Right under the heading, Complications?

A. Yes, it does.

Q. All right. And what were those, please?

A. It lists two complications as problems: maintaining adequate blood pressure and poor intraoperative oxygenation.

Q. There was also a problem, was there not, with respect to the calcar portion of the proximal femur cracking, and that's on the next page?

MR. ZELLERS: Objection to the term problem.

Q. (BY MR. KAMPINSKI) Well, it wasn't expected, was it?

A. It says that the calcar was noted at that stage to have cracked. It doesn't say when, it just says it was noted.

Q. Well, it says at this stage, this is after -- if you want to look at it, after all components had been replaced, the hip had been reduced, that's when it was noted, isn't it?

A. Correct.

Q. Okay. I mean, it wasn't cracked when you went in. It was cracked sometime during the procedure, wasn't it?

A. I presume so.

Q. Who did the procedure?

A. Dr. Smith, and I believe Dr. Gill.

Q. What did you do?

A. I assisted in whatever way was needed as far as a retraction and other --

Q. And that would be to provide a good

vision field for the actual operation?

A. Better exposure, correct.

Q. Would you have done any of the procedure itself other than the holding of the retractors?

A. No.

Q. Are you sure?

A. Positive.

Q. All right. How about Dr. Gill? Would he have?

A. Yes, I assume he would have done a large part of it.

Q. Why do you assume that?

A. Because he was the senior resident on the case, and according to what Dr. Smith thought that he was capable of doing, I'm sure he would let him do whatever part of the case that was.

Q. So this is, in part, training for a young doctor such as yourself and Dr. Gill?

MR. ZELLERS: Objection.

A. That's what a residency is.

Q. (BY MR. KAMPINSKI) Had you ever been involved in a left total hip arthroplasty before this one?

A. I can't recall.

Q. But this had been your first month in the

orthopedic service?

A. Yes, it was.

Q. Can you tell from looking at the operative note whether the plan was to do an arthroplasty with or without cement?

A. I can't tell from the operative report if that was planned or not.

Q. Do you have any recollection or can you tell from here, from looking at the record, whether or not it was done with cement or not?

A. From what I see here, it was done with cement.

Q. And who mixed the cement, sir?

A. I have no idea.

Q. Would you have mixed it?

A. No, I did not.

Q. Would it have been another doctor or nurse or what?

A. I don't know.

Q. All right. If you would look at the progress notes for November 14th, and I wish I could tell you a page number.

A. What date was that?

Q. November 14th.

A. Okay.

Q. Well, the one I'm looking for has the DePuy sticker. There you go.

Q. And that's page what, 111?

A. Correct.

Q. Whose writing is that in blue ink down at the bottom of the page?

A. I have no idea.

Q. Is it signed by anybody?

A. I can't see a signature.

Q. Maybe if you look at the next page. I don't know. No?

A. No.

Q. So we can't actually tell who wrote that, can we?

A. I can't.

Q. And what does it reflect with respect to cement, sir? Two batches bone cement? I'm looking at the writing there.

A. That's what the connotation alongside the sticker says, correct.

Q. All right. And then RDR 888, do you know what that says?

A. No.

Q. And Powder-003AR 140184 do you know what that means?

A. I don't know what any of those numbers mean.

Q. Have you ever seen the cement mix?

A. No, I haven't.

Q. All right. So you didn't see it on this occasion being mixed?

A. No, sir.

Q. The stickers next to it, the DePuy stickers, one of them is for the femoral component and the other one is for the acetabular, is that correct?

A. I believe that's correct.

Q. Do you know which is which?

A. No, I don't.

Q. Do you know if those components are used without cement?

A. No, I don't.

Q. Do you know the effect of the bone cement that was used here on a person with a heart problem?

A. No, I don't.

Q. You weren't taught that by any of the orthopods at St. Luke's?

A. That was not part of our discussion that I can recall, no.

Q. So nobody ever considered the effect of

using cement on Mr. Smith as far as you recall?

MR. ZELLERS: Objection.

MR. GROEDEL: Objection.

MS. DANN: Objection.

A. I don't recall that.

Q. Do you see anything in your review of the records that any consideration whatsoever was given to the effect on Mr. Smith of the use of -- and excuse my pronunciation, methyl -- let me read it, it might be better. Methylcryolate.

MS. DANN: Objection.

MR. ZELLERS: Objection.

A. I don't know from reading the records.

Q. You don't know what?

A. I don't know whether that was entertained in his discussion of the procedure or not.

Q. When you say you don't know, is there anything in your review of the records that reflects it was considered?

A. From the records here, I didn't see anything, no.

Q. And do you recall any discussion about that or any consideration about it since you were one of the people in the operating room at that time?

A. No, I don't recall anything.

Q. Okay. And to this day you don't know what effect, if any, methlycryolate has on someone who has hypertension?

A. That's correct.

Q. All right. After the operation Mr. Smith was taken to SICU, do you know why?

A. From what I recall, and in the review of the chart, it was a precautionary procedure because of his known history of hypertension.

Q. Well, it was more than just his history. The man had a heart attack in there, didn't he?

MR. ZELLERS: Objection.

MS. DANN: Objection.

A. I don't know that.

Q. Did you review the x-ray reports and the EKG?

A. Yes, I did.

Q. And what do those reflect?

A. They reflected his pre-existing heart problems that he had prior to surgery.

Q. Was there any evidence of myocardial ischemia before this operation procedure, sir?

A. Before this procedure?

Q. That's correct.

MR. ZELLERS: To your knowledge.

A. I guess there was a possibility of him having some ischemia prior to surgery, yes.

Q. What are you looking at?

A. Page 136, the EKG report.

Q. What's the date of that?

A. 11-14-84.

Q. Is that before or after the surgery?

A. I don't know offhand when that was done.

Q. Well, what does it say up on the upper right-hand side, Nursing Division, SICU?

A. Yes, it does.

Q. Was he in SICU before or after the operation?

A. He was there after.

Q. So this would have been done after, wouldn't it?

A. Correct.

Q. And the very last part of that is a suggestion that there is an anterial lateral mild myocardial ischemia, right? I mean, I read that right?

A. Right. That was one of the possibilities.

Q. What does that mean to you?

A. Just what it says.

Q. Well, heart attack, right?

A. In layman's terms, yes.

Q. Is there anything in your history or physical that reflected that there had been a heart attack or possibility of a heart attack with Mr. Smith prior to November 14th, 1984, sir?

A. There is an EKG that was done on 10-23-84 that I would like to find here.

Q. All right.

A. Okay. What was your question again, sir?

Q. There is some suggestion that there were abnormalities consistent with left ventricular strain or ischemia?

A. Yes.

MR. ZELLERS: When?

A. Prior to surgery.

Q. (BY MR. KAMPINSKI) 10-23. Were there other abnormalities noted on the EKG November 14th that had not been present previously?

A. On the top of the dictation on the EKG it says, "There are now atrial ectopic beats and the P wave morphology is variable."

Q. What does that mean in layman's terms?

A. Just that his heart rhythm was different from the previous EKG.

Q. And was there an investigation done, from what you could see, to determine why that was the case?

MR. ZELLERS: If you know.

Q. All these questions are premised on if you know.

A. I don't know.

Q. Okay. Were you involved at all in the subsequent care of Mr. Smith or the follow-up after the November 14th surgery?

A. Yes. I saw him I believe on the first and second postoperative day.

Q. In SICU?

A. I don't recall seeing him in SICU, no.

Q. Well, where would you have seen him if not there?

A. I presume I saw him at that time. I did not write any notes on him, so other than what would have been written in here, I don't recall seeing him.

Q. I don't understand what you are saying. Did you or didn't you see him, or you don't remember whether you saw him?

MR. ZELLERS: Or you can't tell.

A. I don't remember seeing him.

Q. (BY MR. KAMPINSKI) All right. There are notes written by you, are there not?

A. Yes, there are.

Q. After the surgery?

A. Correct.

Q. The first one would be when, the 16th?

A. On the 16th, yes.

Q. All right. And that's the second postoperative day. Would that have been after he had been discharged from the SICU?

A. Yes, it would.

Q. And he would have returned, what, is there a special area in St. Luke's for orthopedics?

A. Yes, there is.

Q. And why is it that you would have been the one seeing him afterwards as opposed to, I don't know, Dr. Gill, Dr. Smith, or were all of you seeing him?

A. All of us were seeing him.

Q. Why are you the one that wrote the notes here then?

A. Probably because I guess that's just one of the jobs expected of a junior resident.

Q. So part of your job is writing notes?

A. Correct.

Q. Why don't you tell me what you found on the 16th?

A. On the 16th I found the patient to have stable vital signs, to be complaining somewhat of some -- I wrote here stomach gas, so gaseous feeling in the stomach, I believe.

Q. Well, is that a medical analysis or is that something that he indicated he thought the problem was?

A. That's something that he indicated.

Q. Okay. I'm sorry. Go ahead.

A. That the left leg was intact, as far as the neurovascular exam was concerned, and that lab tests that were drawn postoperatively were available now, and I recorded those.

Q. Was there a hemoglobin available?

A. Yes, 11.4.

Q. What was it before surgery?

A. From the note from Dr. Kolavich, it was 15.8.

Q. Is that a significant drop?

A. I don't know what you mean by significant.

MR. ZELLERS: Objection.

Q. (BY MR. KAMPINSKI) Well, what's medically significant to you? I mean, is a drop

from -- what did you say, 15.8 to 11.4 medically significant?

MR. ZELLERS: Objection.

MR. GROEDEL: Objection.

A. Concerning the fluids he had and concerning the surgery he had and the fluids given, I don't think that would be a dramatic change, no.

Q. Did it get better or worse?

A. Excuse me?

Q. Does it get better or worse?

A. His hemoglobin was slightly less on the following day.

Q. What do you attribute that to?

MR. ZELLERS: Objection.

A. Could be a number of factors.

Q. Well, hemoglobin measures what?

A. Hemoglobin measures essentially blood content.

Q. Blood content. So that if it decreases, that means you are losing blood content?

A. Not necessarily.

Q. But that could be one of the reasons that it decreases?

A. Could be.

Q. Was blood replaced during the surgery on

Mr. Smith?

A. Without reviewing the record, I don't know if he received any blood.

Q. Well, why don't you review the record. And tell us what page you are referring to.

A. This is page 143, it's the anesthesia record from the first case on the 14th, and there is no indication of any blood given at that time.

Q. How about blood loss?

A. Yes, there is a number here of -- looks like 500 cc's.

Q. And there was no replacement?

A. That's correct.

Q. All right. And 500 cc's equates to how much in the way of hemoglobin measurement?

A. That's difficult to say. I don't know.

Q. Would you anticipate that there would be blood given to replace blood loss?

A. Not necessarily.

Q. That's something that you would not have control over, or would you?

A. That is correct, I do not have control over.

Q. What did you attribute the additional loss or reduction in hemoglobin to be?

A. From when to when, sir?

Q. You said you saw him the 16th and you noted the values, and if we look at the 17th, it's 10.8, isn't it?

A. Yes, it is.

Q. Why did it continue to decrease?

A. There could be multiple reasons.

Q. All right. And I take it they were pursued, right?

MR. ZELLERS: Objection.

Q. (BY MR. KAMPINSKI) Right?

A. I don't know if they were pursued.

Q. By the way, if we look at the operative note for November 14th, it's got estimated blood loss was approximately 200 cc. All right. The last sentence?

A. Correct.

Q. What's the effect of blood loss on somebody who's got hypertension, do you know?

MR. ZELLERS: In general?

MR. KAMPINSKI: Yes.

A. In general, it can cause a number of things to happen in his vascular physiology, I guess. To go into that would be quite difficult.

Q. Simplistically, would it cause the heart

to work harder because of less oxygen in the blood?

A. It could.

Q. And do you know if that, at least potential, was ever explored in Mr. Smith's case?

A. I don't know.

Q. This complaint of stomach gas, was that explored, sir?

A. Yes, it was.

Q. And in what fashion?

A. Well, the nasal gastric tube that he had was evaluated for any evidence of bleeding.

Q. Where is that?

A. In the on-call note on the 16th on page 119, that the patient had coffee ground emesis.

Q. What's that?

A. That's a term that we use to denote possible bleeding in the stomach.

Q. And whose note is that?

A. I cannot read that signature.

Q. Is it yours?

A. It's not mine, no.

Q. Is there any similar one to that anywhere that you can see?

A. Signature?

Q. Yes.

A. No, I don't.

Q. Well, would these signatures, this part of the chart that we are looking at, page 119, be signed by residents and/or doctors, or would this be nurses or whose could that signature be?

A. It could be a doctor's signature, it could be a number of other people who sign notes on this portion of the chart.

Q. Could it be nurses or would they be limited to nurses notes?

A. Nurses are usually nurse's notes.

Q. So could I assume that if page 119 is in the progress notes part of the chart, that that would be either a resident or an attending?

A. No, you can't assume that.

Q. Well, you tell me the gamut of people that it could be then.

A. It can be an attending, it could be a resident, I believe it could be a respiratory therapist, an x-ray technologist.

Q. Why don't we read that note and maybe we can figure out who it might be. When it says on-call note, what does that tell you?

A. It's probably the surgical orthopedic resident on call.

Q. And how many surgical orthopedic residents were there in November of 1984?

A. I can't recall that.

Q. Well, there was yourself, Dr. Gill, Dr. Miller, anybody else?

A. Yes, a number of other residents.

Q. You said surgical orthopedic resident?

A. Correct.

Q. How many would there have been?

A. Well, there are two residents in each orthopedic year, and there are four years, so I suppose --

Q. Eight?

A. A total of eight people.

Q. Okay.

MR. ZELLERS: There is a distinction between a surgical resident and orthopedic resident?

A. Correct.

Q. (BY MR. KAMPINSKI) And you are talking about an orthopedic resident I take it here on call?

A. Yes.

Q. All right. And you are saying there would be eight of them?

A. No. There is a possibility of eight

people that might have been in house at that time. I don't know how many were in at that time.

Q. How many would be orthopedic residents?

A. On call?

Q. Yes. There would only be one on call, wouldn't there?

A. No.

Q. How many orthopedic residents were in the orthopedic service or who could have been available on call for that note on November 16th of 1984?

A. I'm not sure. I think there were two orthopedic residents on call.

Q. Okay. But how many orthopedic residents totally?

A. In the whole program?

Q. Yes.

A. I believe eight.

Q. All right. If you could, maybe read that note for me and help me decipher it and maybe we can pin down who it is.

A. It says patient had coffee ground -- I don't know what that means -- emesis tonight.

Q. There is a word after that, you don't know what that is?

A. No.

Q. All right. I'm sorry. Go ahead.

A. Okay. It's coffee ground positive guaic emesis.

Q. What's that?

A. A test done to check for hemoglobin.

Q. Positive guaic means what?

A. There is hemoglobin or its components in that --

Q. Blood?

A. Hemoglobin is a component of blood, yes.

Q. So that the man had blood in the coffee ground emesis?

A. I assume that's what it means, yes.

Q. And is that a pretty clear indication that there is some type of bleeding going on in his stomach?

MR. ZELLERS: Objection.

Q. (BY MR. KAMPINSKI) Or could that be a possibility at least?

MR. ZELLERS: Objection.

A. It could be a possibility, yes.

Q. Sure. And part of a doctor's profession is to explore at least potentially dangerous possibilities occurring in a patient, right?

MR. ZELLERS: Objection.

Q. (BY MR. KAMPINSKI) That's what you try to do?

A. Yes, sir.

Q. Okay. I'm sorry.

A. Also complains of some abdominal distress, it says unable to void, no other complaints.

Q. Okay. Sorry. Go ahead.

A. Patient may have gastritis or stress ulcer. Status post intubation and ventilation, plan is to give Tagamint and Maalox in place of Foley catheter.

Q. Is that pretty good treatment for a gastric ulcer or some type of intestinal bleed, Tagamint or Maalox?

MR. ZELLERS: Objection.

A. The patient -- there is no indication of any intestinal bleed here.

Q. Well, there is a possibility?

A. Not from what I see, no.

Q. No. Where was the bleeding coming from?

A. I can only surmize that.

Q. Well, why don't you surmize for me?

MR. ZELLERS: Objection.

A. Probably coming from his stomach.

Q. Well, are Tagamint and Maalox appropriate

for some type of bleeding occurring from the stomach?

A. Yes.

Q. It is for an ulcer?

A. I don't know whether he has an ulcer.

Q. All right. I assume testing was done to determine that, right?

MR. ZELLERS: Objection.

Q. (BY MR. KAMPINSKI) Correct?

A. I don't know if any testing was done to determine that.

Q. Well, that's not your note, right?

A. No.

Q. That's 9:30 p.m. As we go on, I guess there is a note by you later on, the 17th?

A. Correct.

Q. And can you tell who signs that first before your signature?

A. It looks like Dr. Gill's signature.

Q. And then Peters. Who -- I mean, why are there two signatures there?

A. I write the note and sign it, and the senior resident will co-sign the note if he agrees with it.

Q. So that that's 7:40 a.m., 11-17?

A. That's correct.

Q. In between there there is another page, an SICU resident note, or are my notes mixed up here?

A. I think you are a little mixed up.

Q. I could be. Okay. I've got it. All right. The next note after the one we just got done discussing is the 7:40 a.m. note?

A. Correct.

Q. So if I'm correct then, from 9:30 p.m. on 11-16 until 7:40 a.m. on 11-17 there are no additional notes?

A. Not that is shown here, no.

MR. ZELLERS: You are talking physician notes?

MR. KAMPINSKI: Yes. That's exactly what we are talking about.

A. Correct.

Q. (BY MR. KAMPINSKI) We go to the nurse's notes and see if we can't find the 16th. That's page 72 you have got?

A. Yes.

Q. When you came on duty at 7 -- or whenever you came on in the morning, sometime prior to 7:40 because that's when you wrote the note, did you

review the nurse's notes?

A. I don't recall going over them in depth, no.

Q. But you would have read the prior note with respect to the coffee ground emesis, because you referred to it?

A. That's correct.

Q. Help me out, if you would. I think it's page 72, perhaps. The next page?

A. 73?

Q. Yes. All right. The 9:30 p.m. entry, which corresponds, I guess, to this on-call note, it's got large emesis, approximately 500 cc coffee ground -- what did you say that was, guaic?

A. Guaic.

Q. Plus, and then it's got D. Condo, notify; am I reading that right?

A. No, that's Dr. Cendo.

Q. Dr. Cendo, all right. Who is Dr. Cendo?

A. He is one of the orthopedic residents.

Q. Is he still there?

A. Yes, I believe he is.

Q. So going back now, if we could, to the on-call note, does that look like Dr. Cendo's note there?

A. That could be Dr. Cendo, yes.

Q. All right. So you came in the next morning and you got another hemoglobin reading, is that right?

A. That's correct.

Q. Did you order that or was that a standing order?

A. I am not sure. It may be a standing order or that Dr. Cendo may have ordered it after seeing the patient the night before.

Q. If we go to the doctor's orders, let's see if we can't figure that out.

All right. You are looking at page 51, are you not, Doctor?

A. Correct.

Q. We look at 11-16, is that a time at all?

A. Yes, 12:55.

Q. Would that be -- can you tell if that's p.m. or what?

A. It's 12:55 p.m.

Q. Right after noon?

A. That's correct.

Q. And that's an order written by you?

A. Correct.

Q. Is there anything with respect to

hemoglobin testing of any nature for blood on that order?

A. No, there isn't.

Q. The next entry is again November 16th, and who is that order by?

A. Appears to be Dr. Cendo.

Q. Okay. And he ordered Maalox and Tagamint?

A. Correct.

Q. And what's that say, may change to --

A. To PO.

Q. What's PO?

A. Oral.

Q. Okay. After -- taking fluid well?

A. Something like that.

Q. And zero emesis, 24 hours?

A. Correct.

Q. That's a pretty good interpretation?

A. You are doing very well.

Q. What are these counter signatures or are these just the nurses taking the orders off?

A. That's what I believe they are, the nurses taking the orders off.

Q. And there is a time there, 9:55 p.m., which would once again correspond to what we see in the chart, his note of 9:30?

A. Correct.

Q. So he actually ordered the Maalox and Tagamint?

A. Correct.

Q. What's the next order after that, November 17th x-ray, right?

A. That's correct.

Q. And who is that order by, Smith?

A. Appears to be Dr. Smith's signature, yes.

Q. Could you show me then where this hemoglobin was ordered, if at all, or was it like I said before, perhaps a standing order?

A. There is an order in the transfer orders from the SICU to draw a hemoglobin level in the morning of the 17th.

Q. Okay. So that was an order that was already in place?

A. That's correct.

Q. All right. And you were able to see that then on the 17th, it was available, it was there for your perusal and review, is that right?

A. That's right.

Q. And as a matter of fact, if we go over to the lab, I think it's 126 maybe?

A. 126?

Q. I think. I'm not sure that was the exact same one, but --

A. 127.

Q. 127?

A. Yes.

Q. And the hemoglobin is what, 10.8?

A. Correct.

Q. And that's what you put down?

A. That's correct.

Q. So this value was available for you to look at on the morning of the 17th and to be seen and read and understood?

A. Correct.

Q. All right. And you looked at it, you wrote it down, you knew that there was some additional blood loss, right?

MR. ZELLERS: Objection.

A. I can't tell that.

Q. Why? You wrote down the prior entry, hemoglobin on the 16th, 11.4?

A. Correct. A decrease in that number does not necessarily mean blood loss.

Q. Well, it doesn't necessarily mean there isn't one, though, right?

A. Correct.

Q. We do know, though, that a reduction in value -- and I assume you and Dr. Gill did something to determine why there was this reduction, right?

MR. ZELLERS: Objection. Is that a question?

MR. KAMPINSKI: Yes, I hope so. It wasn't as artfully worded as it might have been.

A. Would you reword it again?

Q. What did you do to determine the drop in the hemoglobin level, Doctor?

MR. ZELLERS: If you did anything.

Q. Or if you asked somebody else to do something, and that's doing something.

A. I didn't do anything.

Q. Did you recommend to anybody else that they do something?

A. No, I didn't.

Q. Why not?

A. I presume from going over these notes that I made that I was not impressed by the change in the hemoglobin.

Q. Were you impressed by the continuing complaints of abdominal gas and distention, or that wasn't impressive?

A. That's not an unusual complaint.

Q. How about the coffee ground emesis, is that unusual?

A. It's not extremely unusual for a postoperative patient, no.

Q. When you saw him on the morning of the 17th, did you do anything?

A. Meaning what?

Q. I don't know. Examine him, check his leg out. What was your job that morning?

A. It was to do all of those things.

Q. And how was his leg?

A. From the note that I made here, there was nothing grossly abnormal.

Q. Why was it found to be grossly abnormal by someone else later on?

MR. ZELLERS: Objection.

A. I don't know.

Q. (BY MR. KAMPINSKI) What happened to Mr. Smith that morning, if you know?

A. I don't know.

Q. Were you involved at all with him after that?

A. No, sir, I wasn't.

Q. Why not?

A. I presume that my duties were directed elsewhere in the hospital and that I did not see Mr. Smith after that.

Q. Wouldn't it be normal for you to follow the same patient?

A. Not necessarily.

Q. Well, how were you supposed to learn without seeing the follow-up of what you were doing? I mean, correct me if I'm wrong, but --

A. It's preferable that we follow them, but sometimes that isn't physically possible with our other duties.

Q. Doctor, if you would go to the nurse's notes on 72, 73, 74.

A. Yes.

Q. The first line on that is what date?

A. That is 11-16.

Q. And what does it say?

A. First line?

Q. Yes.

A. The first line says, "internally rotated left leg."

Q. What does that mean?

MR. ZELLERS: Objection.

A. Taken out of context, I don't know what

that means.

Q. I'm sorry. Taken out of context?

A. Yes.

Q. Who is taking it out of context?

A. Well, without the previous note, the previous -- the first part of the sentence, it doesn't mean anything.

Q. The first part of what sentence? It's a sentence by itself it seems to me.

A. No, it's not.

Q. It's not?

A. No, sir.

Q. Okay. Well, why don't you read the whole sentence then?

A. The whole sentence reads, "Patient instructed not to internally rotate left leg."

Q. Oh, I'm sorry. I apologize.

And who is that written by?

A. I presume one of the nurses. It's in the nursing notes.

Q. Can you read her name?

A. No, I can't.

Q. And that's at 10 p.m. he was instructed not to internally rotate his left leg?

A. That's correct.

And then the next note is what, 11-17?

A. That's correct.

Q. What time?

A. Looks like 12 midnight.

Q. 12 midnight. I don't want to take anything out of context, Doctor, so why don't you read that note for me.

A. "Patient awake, I.V. patent to left arm, absorbing without difficulty, per pump," some connotation I'm not familiar with. "I.V. site shows no signs of rotation. Patient's abdomen distended. Moderate soft bowel sounds present. No signs of nausea or vomiting. O2 per nasal cannula, four liters a minute. Buck's traction, five pounds to left leg in place. Left leg rotated internally."

Q. I'm sorry. What was that, sir?

A. Left leg rotated internally.

Q. Okay. You are not taking that out of context then?

A. No, sir.

Q. Okay. And that's at 12 midnight on the 17th?

A. Yes, sir.

Q. Is that the end of that particular note?

A. That's the end of that entry, it appears,

yes.

Q. Why is it that you didn't indicate that when you saw him at 7:40 in the morning, sir?

A. On exam at that time apparently it didn't strike me as being grossly abnormal.

Q. So you can't explain why they had to rush him to surgery that afternoon for this thing that didn't strike you as being grossly abnormal?

MR. ZELLERS: Objection.

MS. DANN: Objection.

MR. GROEDEL: Objection.

Q. Is that correct?

MR. ZELLERS: Can you answer that question?

A. No, I can't answer that.

Q. (BY MR. KAMPINSKI) And can you tell me the name of that nurse down there that wrote that note?

A. I can't read that, sir.

Q. By the way, if we go down, for example, to the 6 a.m. entry, that's the same writing, isn't it? I mean that same person wrote all the way through 6 a.m.?

A. Yes, it appears that's the person.

Q. And at 6 it's got -- I'm looking at the

third line of that, L for left, leg remains internally rotated?

A. That's what it says.

Q. And once again that's an hour and 40 minutes before you even got there, right?

A. Correct.

Q. If we go to the 8 a.m. entry, that's the next one after that?

A. Yes.

Q. And part of that is cut off on my copy here. If you could read that for me, if you would?

A. "Awake and alert, slightly diuretic. O2 maintained at four liters per nasal cannula. I.V. patent. Left forearm site good, infusing per pump. Left leg, five pounds Buck's traction, and internally rotated, unable to reposition to proper alignment."

Q. Why isn't there anything in the doctor's notes about that, sir, and why are the nurses writing about it and I don't see anything by you or Dr. Gill about this left hip being internally rotated? Could you explain that, sir?

MR. ZELLERS: Objection. Can you add anything more than you have already testified to?

A. No. I would just be surmising.

Q. (BY MR. KAMPINSKI) Do you know why Dr. Jackson was called in in the morning of November 17th, apparently? His note is the next one, isn't it, "Internal med FV"?

A. Yes.

Q. What's FV?

A. I think that's FU, follow up.

Q. So it may have just been a normal follow up, you don't know?

A. I don't know. I presume that's what it was.

Q. And the next note asks for x-ray portable AP left hip, 10 a.m., and Dee and KUB. Dee, do you know who Dee is?

A. No, I don't know.

Q. Why would they ask for a KUB, do you know, based on what you have looked at and seen here? If you are looking for the record on it, don't. It's not there.

A. I presume that a KUB would be to evaluate anything that might have been going on in the patient's abdomen. That's what the KUB is of.

Q. And you don't know who Dee is?

A. No, I don't. That's not the person that

ordered it. That's the radiology technician.

Q. Okay. Do we know who ordered it? Can we determine that?

A. We can look, I suppose.

Q. All right. Looks like Smith?

A. That's correct, looks like Smith.

Q. And I assume, and you have been taught this as a resident student in medical school, that when you order something, you order it because you want to know what the results are, right?

A. Yes.

Q. Okay. The next entry, and help me out here, is 11- -- maybe I'm looking at this wrong again and I don't want to do this to you. Is the next entry from you, Dr. Peters?

A. Yes, it is.

Q. What time, 7:45?

A. That's correct.

Q. Are these in sequence, though? I don't understand what's going on here. Why would Smith order x-rays AP portable, diagnosis, post-op check -- All right. That was not in response, I take it, to the internal rotation, or was it?

MR. ZELLERS: Objection. Are you talking about his note or Smith's note?

MR. KAMPINSKI: Smith's.

MR. ZELLERS: If you know what Smith wrote.

Q. (BY MR. KAMPINSKI) Yes, if you know.

MR. GROEDEL: Objection.

A. Okay. It appears to me that the order here is out of sequence.

Q. (BY MR. KAMPINSKI) All right. Maybe that's where I'm having trouble. Let me see what you have got here. When you say out of sequence, why don't you turn to page 50 -- I see. I see. 52 comes before 51?

A. Well, no.

Q. Yes. See what they have done?

A. Well, these are backwards. That's how they are catalogued on the chart. You see, we are going more current as we go back.

Q. I've got you. All right. So what we have got here is in the morning of the 17th, Smith orders some x-rays, apparently, 7:30 a.m., right? That's what's taken off the chart?

MR. ZELLERS: Objection.

A. That's what's written here.

Q. (BY MR. KAMPINSKI) Yes. Okay. And then if we turn to the next page, which is 52, yours is

the next entry and that's your name, right, Peters?

A. Correct.

Q. All right. And you order, what's that?

A. Dobalax.

Q. What's that?

A. Stool softener.

Q. And what else does it say?

A. Just how it's supposed to be given.

Q. And that's taken off at 7:45?

A. That's what's written, correct.

Q. And Dr. Jackson comes in and his order is taken off at 9:30?

A. That's what's written.

Q. What's the next one? Who is that, Smith?

A. I believe that's Smith's writing.

Q. That's taken off at 10:00, right?

A. Yes.

Q. He scheduled surgery, nothing by mouth for surgery at 3 p.m. today?

A. That's what's written.

Q. That's when he orders the KUB, portable, correct?

A. All right, correct.

Q. And it says, cancel above blood work, is that what it says?

A. That's what that says.

Q. He ordered the CBC and SMA6 stat now?

A. Correct.

Q. And then cancelled previous blood work that had been ordered by Dr. Jackson?

A. That's what I take it he did.

Q. Why does he do that?

MR. GROEDEL: Objection.

A. I don't know.

Q. Does SMA6 result in testing that would indicate whether or not there was any type of internal bleed?

A. Not necessarily.

Q. How about whether or not there was heart deterioration of any kind?

A. Not necessarily.

Q. What tests would be done to make those kinds of determinations?

A. I'm not a cardiologist. I don't know what would necessarily be ordered.

Q. All right. Okay. You just don't know one way or the other?

A. Correct.

Q. Was there a cardiology consult before surgery that you can see?

A. From my understanding, Dr. Jackson is an internist or cardiologist, I'm not sure.

Q. So he was called in then after the decision for surgery, is that what you are saying?

MR. ZELLERS: Objection. If you know.

Q. (BY MR. KAMPINSKI) Yes. If you don't know, I mean, obviously say you don't. If you do, then tell me.

A. I don't know how that decision or if that decision was made. I can't tell.

Q. Okay. And it's your assumption because you don't see your name anywhere in the record any more, that you didn't have any additional involvement after that particular morning with Mr. Smith?

A. That's correct.

Q. Are all your notes countersigned by somebody or was it just that one, and when I say that one, I mean the one of the morning of the 17th? For example, I'm looking at the one on the 16th. That's just got your name on it?

A. That's correct. That one was not countersigned; and there were two other entries by myself on the 14th. One was countersigned, one was

not.

Q. Okay. So you are telling me that there is nothing sinister about whether one is or one isn't?

A. Not at all.

Q. And the one that's countersigned on the 14th, who is that countersigned by?

A. Alan Oliver.

Q. Who is he?

A. He was the attending in the SICU at that time.

Q. Why would he countersign the note for you?

A. Because I placed an arterial line in the patient, in the ICU bed.

Q. So you did see him then?

A. Yes.

Q. Did you talk to anybody after the second operation on Mr. Smith in terms of how he died or what happened?

A. No, I didn't.

Q. Were you even informed that he died?

A. I found out the following day that he had.

Q. How did you find out?

A. I don't recall.

Q. Well, I mean, was this an unusual

occurrence as far as someone dying after a hip replacement?

MR. ZELLERS: Objection.

MS. DANN: Objection.

A. I don't know what you mean by unusual. Certainly any death is of concern.

Q. (BY MR. KAMPINSKI) Well, you don't have any recollection of how you found out, though?

A. No, I don't.

Q. Did you have any discussions with any of the doctors afterwards in terms of what had happened? I mean, you are a student and I assume everything that occurs in a hospital is to some degree a learning experience?

A. Certainly.

Q. And a death following a hip replacement, wouldn't that be something that would be discussed by the attendings and the residents in terms of what went wrong, what did we do, why did this man die, that type of thing?

MS. DANN: Objection.

Q. (BY MR. KAMPINSKI) A review, basically.

A. Sometimes that's done, sometimes it isn't.

Q. Was it done here?

A. If it was, I was not part of it.

Q. So you don't know if it was or not?

A. No, I don't know.

Q. All right. Are there other entries of yours, sir, in this record that we haven't discussed?

A. No, sir. I don't see any others and I don't recall making any others.

Q. Did you continue on the orthopedic service then through the month of November and through the month of December?

A. Yes.

Q. How is it that you are evaluated and move onto the next phase of your training? How does that occur?

A. I believe the different attendings in the subspecialties give us evaluations after we are through with that rotation.

Q. Okay. And that's required in order for you to move on?

MR. ZELLERS: Objection. If you know.

A. I don't know.

Q. (BY MR. KAMPINSKI) Okay. All right. Why don't we take about a two-minute break.

(Discussion had off the record)

Q. (BY MR. KAMPINSKI) During the period of time when you were seeing Mr. Smith, I take it you were employed by the hospital?

A. That's correct.

Q. And the visitations with respect to Mr. Smith were in the course and scope of your duties with the hospital?

A. Yes, sir.

Q. And that would be true for Dr. Gill at that time also, would it not?

A. Yes, sir.

Q. In your training, was it part of your duty to timely advise the attending or whoever was on call of problems that you saw with patients? For example, if you would have recognized an internal rotation of Mr. Smith's leg on the morning of November 17th, 1984, would it have been your job to tell somebody about that right away?

MR. ZELLERS: Objection.

MS. DANN: Objection.

A. If I had noted that, yes, I would.

Q. (BY MR. KAMPINSKI) And why is that, Doctor?

A. Common sense. If there are any problems or serious complications, I would assume that we

would notify the appropriate people.

Q. And that was a serious complication, wasn't it?

MR. ZELLERS: Objection.

A. From what I understand it is.

MR. ZELLERS: Wait a minute. What are you referring to as a serious complication? You are talking about just the words "internally rotated"?

MR. KAMPINSKI: Yes.

MR. ZELLERS: I don't know that that's the same as the dislocation, and I just want to make sure whatever he is saying is a serious complication is on there.

Q. (BY MR. KAMPINSKI) Are they different?

A. I assume they could be.

Q. Are they? Why don't you take a look and you tell me whether they are different, sir.

A. From what I gather from the records here, that in this case they are the same.

Q. All right. So now let's get back to the question, and that is, is that, once again, the internally dislocated leg, or internally rotated leg, or dislocated, which you have indicated are the same, is that a serious complication?

MR. ZELLERS: Objection.

MR. GROEDEL: Objection.

Q. (BY MR. KAMPINSKI) Is that serious, sir?

A. I assume that it is, yes.

Q. Do you still work at all in conjunction with either Dr. Smith, Stephens, or Jackson?

A. On occasion.

Q. How would that come about? I mean, would you get involved in orthopedic cases still?

A. Surgically, no. As far as an emergency room situation, I do at times, yes.

Q. In other words, one of your functions at the hospital is in the emergency room?

A. Correct.

Q. And you would run into them on occasions there?

A. Correct.

Q. All right. How about Dr. Lee? You do surgery now at the hospital?

A. Not currently. I will after I'm through at Huron Road.

Q. And he is still an anesthesiologist there?

A. I assume he is, but I don't know.

Q. All right. The last you checked he was?

A. That was many months ago, yes, but yes.

Q. And did you have many cases with him as the anesthesiologist?

A. Yes, I did.

Q. Do you rely on the anesthesiologist at all in terms of ability to perform an operation?

MR. ZELLERS: Objection.

MS. DANN: Objection.

MR. GROEDEL: Objection.

A. Sure.

Q. (BY MR. KAMPINSKI) Okay. And in what way? I mean, to what degree would you rely on him?

MS. DANN: Objection.

MR. ZELLERS: Objection.

A. I don't know what you are asking.

Q. (BY MR. KAMPINSKI) Let's assume that you and the attending decide a patient has to have a surgical procedure. Okay? And you have to have an anesthesiologist in conjunction with that procedure. To what degree does he determine whether or not that procedure can appropriately be done on a patient? At what point would you stop relying on him and say, hey, I'm going to do it anyhow?

MR. GROEDEL: Objection.

MR. ZELLERS: Objection.

MS. DANN: Objection.

Q. (BY MR. KAMPINSKI) Or up to what point does he have a right to say you can't operate on this man because of -- do you understand my question?

A. I do and I don't know what that point would be.

Q. Is it a joint decision that has to be decided between the anesthesiologist and the surgeon?

MR. GROEDEL: Objection.

MR. ZELLERS: Objection. If you know. He is a junior resident.

MR. KAMPINSKI: He is not junior any more; he is a fourth year resident.

MR. ZELLERS: But at the time he was a junior resident. He --

MR. KAMPINSKI: But I'm asking him now, not then.

A. From what I know, it would be a joint decision.

Q. (BY MR. KAMPINSKI) Do you double check the bases upon which he makes a decision? And let me be clear, I don't intend to trick you. if he puts down in his anesthesiology note, for example,

hemoglobin level of 13 or 14, would you look at his anesthesiology pre-op note to make sure that the levels he is making his decisions on are accurate?

A. I would, yes.

Q. Okay. Why don't you take a look at the anesthesiology note here.

A. Where are you looking, sir?

Q. Oh, I don't know. I'll find it somewhere. There is a one sheet page in here by Dr. Lee.

MS. DANN: 152.

A. There appears to be a page in here signed by Dr. Lee on 152.

Q. (BY MR. KAMPINSKI) All right. Do you see the box labeled Lab, ASA status?

A. Yes, I see the box.

Q. That's what we were talking about in terms of whether you would review it and you have indicated you would, correct?

A. If I were part of this procedure, I would have, yes.

Q. And the reason for your reviewing it is what, to make sure it's accurate?

A. I would assume so, sure.

Q. Sure. What's he got for HB? That's hemoglobin, isn't it?

A. Correct.

Q. What's the level he's got there?

A. It says 15.8 there.

Q. And if you would turn once again to the lab values for November 17th, although we know what it's going to say because that's what you put down earlier, isn't it?

A. Correct.

Q. It's got to say what, 10.8?

A. Two values, 10.8 and 10.9.

Q. That's page 127?

A. That's correct.

Q. Neither one of them are 15.8, are they?

A. Not according to this, no.

Q. And what would you have done if you would have noticed that discrepancy? Pointed it out to the anesthesiologist so he could have evaluated based on accurate data?

MR. ZELLERS: Objection. Are we talking about him back then as a junior surgical resident or today, and if he was an attending involved in this case?

MR. KAMPINSKI: Sure. That's a fair question and I'll ask it both ways, and quite frankly, ask you if the answer is any different

either way.

A. What would I have done at that time?

Q. Sure.

A. I presume I would have made that evident to the surgical attending at that time.

Q. And I assume the answer would still be true today?

A. Yes.

Q. Under ASA physical status on that form on page 152, it's got numbers up to five and then it's got E, right?

A. Yes.

Q. What's the E for?

A. I don't know.

Q. Is it emergency?

MR. ZELLERS: Objection.

Q. (BY MR. KAMPINSKI) If you know.

A. I don't know.

Q. Three is right in the middle, right?

A. Appears that way.

Q. What does that indicate to you regarding physical status?

MR. ZELLERS: Objection.

A. Without knowing what the numbers themselves mean, I don't know.

Q. (BY MR. KAMPINSKI) Okay. Is it part -- or was it part of your job back in 1984 as a resident tu obtain consent forms for operation?

A. No, it wasn't.

Q. Whose job was it?

A. I don't know.

Q. Do you know now whose job it is?

A. No, I don't know.

Q. Do you get them signed?

A. At times I do, yes.

Q. At times who else would get them signed?

A. The other residents, the other physicians, other surgeons that are involved with the case.

Q. Is something that you learn in medical school and as a resident that you have to abide by is you can't operate on somebody without having their consent to do so?

A. That's correct.

Q. And I assume you have been taught that that requires an Ohio written consent?

MR. ZELLERS: Objection.

MR. GROEDEL: Objection.

Q. (BY MR. KAMPINSKI) Have you been taught that?

A. I have not been taught that, no.

Q. In other words, you can talk to somebody and they can say, "Go ahead and operate on me," and you can do that?

A. I'm not sure of that.

Q. Do you know why they have consent forms?

MR. ZELLERS: Objection.

Q. (BY MR. KAMPINSKI) That you on occasion get signed?

A. I presume for legal purposes.

Q. You mean you can do it legally if they sign it and you can't if they don't?

MR. ZELLERS: Objection.

MR. GROEDEL: Objection.

MR. ZELLERS: You don't need to answer that question.

Q. (BY MR. KAMPINSKI) Have you performed or been involved in any left hip arthroplasties other than this one, to your recollection?

A. I don't recall any, no.

Q. This is the only one?

A. I'm not sure.

MR. KAMPINSKI: Doctor, that's all the questions I have. The other attorneys may have some questions.

A. Okay.

MR. GROEDEL: I have no questions.

MS. DANN: I don't have any questions.

MR. KAMPINSKI: You have a right to read your testimony. You have a right to waive your signature. Your attorney will advise you.

MR. ZELLERS: We'll not waive signature.

Send me a copy of the transcript and I'll have the doctor read it and sign it.

- - -

I have read the foregoing transcript from page 1 to page 74 and note the following corrections:

PAGE:	LINE:	CORRECTION:	REASON:

RANDALL B. PETERS, M.D.

Subscribed and sworn to before me this day of , 1986.

Notary Public

My Commission Expires:

THE STATE OF OHIO,)
) SS: CERTIFICATE
COUNTY OF CUYAHOGA.)

I, James M. Mizanin, a Notary Public within and for the State of Ohio, duly commissioned and qualified, do hereby certify that RANDALL B. PETERS, M.D. was by me, before the giving of his deposition, first duly sworn to testify the truth, the whole truth, and nothing but the truth; that the deposition as above set forth was reduced to writing by me by means of Stenotypy and was subsequently transcribed into typewriting by means of computer-aided transcription under my direction; that said deposition was taken at the time and place aforesaid by agreement of counsel; and that I am not a relative or attorney of either party or otherwise interested in the event of this action.

IN WITNESS WHEREOF, I hereunto set my hand and seal of office at Cleveland, Ohio, this 12th day of December, 1986.

James M. Mizanin, RPR, Notary Public
Within and for the State of Ohio
540 Terminal Tower
Cleveland, Ohio 44113

My Commission Expires: January 13, 1988.

SAINT LUKE'S HOSPITAL
11311 SHAKER BOULEVARD / CLEVELAND, OHIO 44104 / (216) 368-7000

AGREEMENT

This agreement is hereby made and entered into this 21st day of February 19 84

by and between SAINT LUKE'S HOSPITAL and Randall B. Peters, M.D.

The Hospital offers and the above-named Physician agrees to serve as a Second Postdoctoral Year Resident in General Surgery at SAINT LUKE'S HOSPITAL for a period of 12 months beginning July 1, 1984, and terminating June 30, 1985

THIS APPOINTMENT IS ACCEPTED UNDER THE FOLLOWING TERMS AND CONDITIONS:

Stipend	$ 22,260 Annually
Vacation	Three Weeks (120 Hours)
Living Quarters	"On Call" Room Provided
"On Call" Meals	Provided
Lab Coats and Laundry thereof	Provided
Professional Liability	Provided
Blue Cross Hospitalization	Provided for Physician, Spouse and Children
Life Insurance	$10,000 Group Life Insurance Policy Provided

The HOSPITAL AGREES to provide a training program that meets the standards of the Essentials of Accredited Residencies, prepared by the Liaison Committee on Medical Education of the American Medical Association and to pay the physician bi-weekly through direct deposit payroll at the bank of the physician's choice in the Greater Cleveland area.

The PHYSICIAN AGREES to perform satisfactorily and to the best of his ability the customary service of the internship or residency, to conform to Hospital policies, procedures, and regulations that are not inconsistent with the agreement; and not to engage in any outside remunerative work unless specifically approved by the Hospital.

The PARTIES hereto have entered into this agreement in good faith, and acknowledge their respective ethical and legal obligations to fulfill this agreement until its expiration date, except in the case where the physician is unable to do so because of incapacitating illness. The PARTIES further agree that under no circumstances will either party terminate this agreement prior to its expiration date without prior notice and without providing the other party the opportunity to discuss freely any differences, dissatisfactions, or grievances that may exist. In making this agreement the physician recognizes the right of the Hospital to change the assignment of duties and responsibilities should this become advisable and necessary,

The PHYSICIAN AGREES with the signing of the contract to discontinue and cancel any and all applications or commitments with regard to any internship or residency with any other institution for the period described above.

Martha Nagy
for SAINT LUKE'S HOSPITAL

Randall B. Peters M.D.
PHYSICIAN